(209)

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ.

WRIT PETITION No. 2391 OF 2003

PETITIONERS	1	Puranchand Seth, S/o late Banshidhar, aged 51 years,
	2	Kulmani Seth, S/o late Banshidhar, aged 45 years
	3	Neelamani Seth, S/o late Banshidhar, aged 42 years
		Petitioners No. 1 to 3 are residents of Village & Post Baloda Via Saraipali, Distt. Mahasamund (Chhattisgarh)
	Versus	
RESPONDENTS	1.	State of Chhattisgarh through The Secretary, Tribal Welfare Department, Mantralaya, Dau kalian Singh Bhawan, Raipur (Chhattisgarh)
	2.	Collector, Raipur (Chhattisgarh)
	3	Collector, Mahasamund (CG)
	4	Naib Tahsildar, Saraipali, Dist. Mahasamund (Chhattisgarh)
	5	Netra Singh, S/o Mahabali Singh, Caste Gond, R/o Village Baloda, Via Saraipali, District Mahasamund (Chhattisgarh)

Present : Shri Manindra Shrivastava, Sr. Advocate with Amrito Das, learned counsel for the petitioners.
Shri Sanjay S Agrawal, learned Govt. Advocate for the State of Chhattisgarh.

ORAL ORDER
(Passed on 17th April, 2006)

The dispute brought before the Court relates to the question whether the petitioners belong to 'Dhoba' Tribe or 'Dhobi' Caste. The respondents-authorities by the impugned action held that the petitioners belong to 'Dhoba Tribe and not Dhobi Caste'. The question whether the petitioners belong to 'Dhoba' Tribe or 'Dhobi' Caste is essentially a question of fact, and that question cannot be resolved in a summary proceeding under Article 226 only on the basis of affidavits and counter-

affidavits. Be that as it may, in para 9 of the return filed by the respondent Nos. 1, 2, 3 and 4, they have suggested that the above question could be thrashed out and scrutinized by the High Level Caste Certificate Scrutiny Committee at the State level. It is pointed out that after the judgment of Supreme Court in **Ku. Madhuri Patil & Another Vs. Additional Commissioner, Tribal Development and others**[1] in all States, High Level Caste Certificate Scrutiny Committee were constituted at the State level to scrutinize the caste status of persons when disputed. In that view of the matter, I think that the ends of justice would be met by directing the High Level Caste Certificate Scrutiny Committee at the State level to decide on the caste status of the petitioners, whether they belong to Dhoba Tribe or Dhobi Caste.

(2) In that view of the matter, I dispose of this writ petition directing the first respondent to refer the question whether the petitioners belong to Dhoba Tribe or Dhobi Caste to the High Level Caste Certificate Scrutiny Committee at the State level forthwith directing the said Committee to dispose of the reference as expeditiously as possible, at any rate, within a period of six months from the date of reference. The said Committee shall provide reasonable opportunity of being heard to the parties and also to adduce evidence. It is further directed that all matters including the proposal to prosecute the petitioners shall await the decision of the High Level Caste Certificate Scrutiny Committee at the State level on the caste status of the petitioner. In the facts and circumstances of the case, the parties shall bear their respective costs in this writ petition.

Sd/-

CHIEF JUSTICE